

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Nursing Home Care Act is amended by changing Section 2-201 as follows:

(210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

Sec. 2-201. To protect the residents' funds, the facility:

(1) Shall at the time of admission provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written statement explaining to the resident and to the resident's spouse (a) their spousal impoverishment rights, as defined at Section 5-4 of the Illinois Public Aid Code, and at Section 303 of Title III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), ~~and~~ (b) their obligation to comply with the asset and income disclosure requirements of Title XIX of the federal Social Security Act and the regulations duly promulgated thereunder, except that this item (b) does not apply to facilities operated by the Illinois Department of Veterans' Affairs that do not participate in Medicaid, and (c) the resident's rights regarding personal funds and listing the services for which the resident will be charged. The facility

shall obtain a signed acknowledgment from each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, that such person has received the statement and understands that failure to comply with asset and income disclosure requirements may result in the denial of Medicaid eligibility.

(2) May accept funds from a resident for safekeeping and managing, if it receives written authorization from, in order of priority, the resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or its operations, and who is not connected in any way to facility personnel or the administrator in any manner whatsoever.

(3) Shall maintain and allow, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, access to a written record of all financial arrangements and transactions involving the individual resident's funds.

(4) Shall provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written itemized statement at least quarterly, of all financial transactions involving the

resident's funds.

(5) Shall purchase a surety bond, or otherwise provide assurance satisfactory to the Departments of Public Health and Insurance that all residents' personal funds deposited with the facility are secure against loss, theft, and insolvency.

(6) Shall keep any funds received from a resident for safekeeping in an account separate from the facility's funds, and shall at no time withdraw any part or all of such funds for any purpose other than to return the funds to the resident upon the request of the resident or any other person entitled to make such request, to pay the resident his allowance, or to make any other payment authorized by the resident or any other person entitled to make such authorization.

(7) Shall deposit any funds received from a resident in excess of \$100 in an interest bearing account insured by agencies of, or corporations chartered by, the State or federal government. The account shall be in a form which clearly indicates that the facility has only a fiduciary interest in the funds and any interest from the account shall accrue to the resident. The facility may keep up to \$100 of a resident's money in a non-interest bearing account or petty cash fund, to be readily available for the resident's current expenditures.

(8) Shall return to the resident, or the person who executed the written authorization required in subsection (2) of this Section, upon written request, all or any part of the resident's funds given the facility for safekeeping, including

the interest accrued from deposits.

(9) Shall (a) place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility has written authorization from the resident or the resident's guardian or if the resident is a minor, his parent, to handle it differently, (b) take all steps necessary to ensure that a personal needs allowance that is placed in a resident's personal account is used exclusively by the resident or for the benefit of the resident, and (c) where such funds are withdrawn from the resident's personal account by any person other than the resident, require such person to whom funds constituting any part of a resident's personal needs allowance are released, to execute an affidavit that such funds shall be used exclusively for the benefit of the resident.

(10) Unless otherwise provided by State law, upon the death of a resident, shall provide the executor or administrator of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility.

(11) If an adult resident is incapable of managing his funds and does not have a resident's representative, guardian, or an immediate family member, shall notify the Office of the State Guardian of the Guardianship and Advocacy Commission.

(12) If the facility is sold, shall provide the buyer with a written verification by a public accountant of all residents'

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monies and properties being transferred, and obtain a signed receipt from the new owner.

(Source: P.A. 86-410; 86-486; 86-1028; 87-551; 87-1122.)

Section 99. Effective date. This Act takes effect upon becoming law.